

INSTRUCTIONS FOR FILING A PETITION FOR MODIFICATION OF CHILD SUPPORT OBLIGATION

South Dakota allows either the custodial or non-custodial parent to petition for modification of a South Dakota child support order at no cost to either party. In limited circumstances, another state's child support order may be modified if registered in South Dakota. Please contact the Division of Child Support or your attorney for more information regarding modification of out-of-state child support orders. **You are the Petitioner and the other parent is the Respondent.**

If the support order was established: (1) before July 1, 2005; or, (2) more than three years have passed since establishment of the order, you do not have to state any change in circumstances within the petition. If the order was established after July 1, 2005, and is less than three years old, you must state a **substantial** change in circumstances before modification is appropriate.

Make certain that you complete all sections within the petition and financial statement. The petition must be signed before a notary public. Also, make certain that you submit all necessary attachments with the petition. **SEE CHECKLIST BELOW.**

You **MUST** attach to your petition and financial statement a complete copy of your most recent order for support, divorce decree, or judgment, which establishes the support obligation you wish to modify. You **MUST** also attach verification of your income. If you are employed, attach a copy of your most recent pay stub or other documentation. Also attach a complete copy of your most recently filed Federal Income Tax Return, with all supporting schedules and documents. If you file jointly with your spouse, attach a copy of your W-2. You **MUST** also attach verification of health insurance costs and childcare expenses for your child(ren), if any. If you are requesting an abatement of support for visitation or a cross credit for shared parental responsibility, you **MUST** also attach a copy of your most recent court order establishing your visitation rights.

In any petition for modification, state law provides that the referee and court may consider health insurance coverage, childcare expenses, and immediate wage withholding as part of any decision. Mail your petition, financial statement, and supporting attachments to: **Modification Section, Division of Child Support, 700 Governors Drive, Pierre, SD 57501-2291.** If you have any questions, call the Modification Section at (605) 773-4724. A brochure explaining the process is also available at the local office of the Department of Social Services and at the nearest Division of Child Support.

CHECKLIST: HAVE YOU INCLUDED:

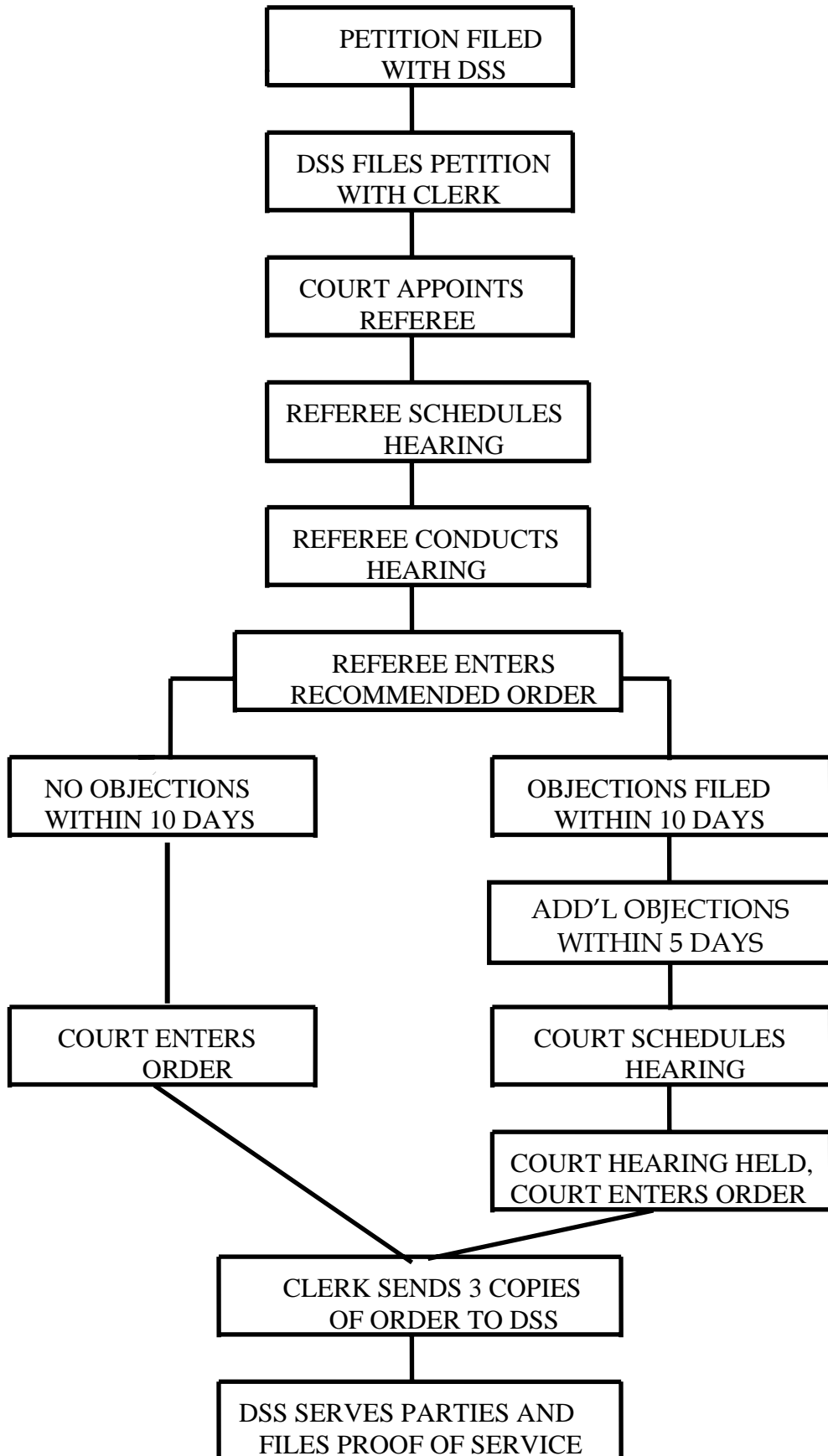
- ☐ Both Petitioner and Respondent's name and address.
- ☐ Signed and Notarized Petition.
- ☐ Signed Financial Statement. (Sign and date the financial statement.)
- ☐ Complete copy of your most recent South Dakota Order for Child Support.
- ☐ Copy of your most recent pay stubs or other verification of income.
- ☐ Your last filed Federal Income Tax Return with all supporting schedules and documents. Include your W-2 if you filed jointly.
- ☐ Verification of health insurance coverage for the child(ren), if any. Public Health and Title 19 (Medicaid) are not considered adequate coverage.
- ☐ Verification of childcare expenses for the child(ren), if any.
- ☐ A copy of your most recent visitation order, if you are requesting an abatement for visitation or a cross credit for shared parental responsibility.
- ☐ Copy of court order & evidence of payment if claiming deduction for other child support obligations and/or alimony payments.
- ☐ A completed UJS/DSS Form 089 (white and yellow copies).

MODIFICATION OF SUPPORT ORDERS

SDCL 25-7A-22 provides for a process for the custodial parent, noncustodial parent, or an assignee to file a petition to increase or decrease South Dakota child support orders based upon a change in circumstances. This process involves the Department of Social Services, referees appointed by the Unified Judicial System, and the Circuit Courts. The steps for the modification process are outlined below.

1. Petition, financial statement, a copy of the court order, and other attachments are filed with the Department of Social Services (DSS).
2. DSS forwards the documents to the clerk of courts in the county where the court order is filed.
3. The Circuit Court judge appoints a referee to conduct a hearing on the petition for modification.
4. The referee sends notice to the parties with a scheduled hearing date, and a request for the non-petitioning party to submit financial statement and other information. If the petitioner does not appear at the hearing, the referee may dismiss the request for modification.
5. The referee conducts a hearing, using the child support guidelines, to determine whether the child support order should be changed. The parties may provide testimony or evidence to the referee for consideration of deviations or other allowable factors.
6. Based upon the findings of the referee, the referee enters a report recommending the amount of the monthly support obligation. This report is filed with the Circuit Court, and a copy is served on the custodial parent, noncustodial parent, and the assignee, if applicable.
7. Any of the parties may file written objections to the referee's report with the Circuit Court within ten (10) days of entry of the referee's report. A transcript of the referee's hearing is generally required. You should contact the referee to order the transcript.
8. If no objections are filed within ten (10) days, the Circuit Court may enter its order.
9. If objections are filed within ten (10) days by one of the parties, the other party shall have an additional five (5) days from the date of service of the objections to file additional objections with the court. The Circuit Court then schedules a hearing, to consider the objections to the referee's report. After the hearing, the Circuit Court enters an order to adopt the referee's report, modify it, or reject and remand it for further hearing by the referee.
10. After entry of the Circuit Court order, the Department of Social Services serves both parties with a copy of the order by certified mail, and files proof of service with the court.
11. Either party can appeal the Circuit Court order to the South Dakota Supreme Court within thirty (30) days of entry of the circuit court order.

MODIFICATION PROCESS FLOWCHART



DSS-SE-415 (07/2006)
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF CHILD SUPPORT

STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
) _____JUDICIAL CIRCUIT

COUNTY OF ORDER _____)

PETITIONER,)
)
VS) PETITION FOR
) MODIFICATION
RESPONDENT,) OF CHILD SUPPORT
)

INFORMATION ON PETITIONER (Person completing this form):

NAME _____ TELEPHONE# _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

LAST KNOWN INFORMATION ON RESPONDENT:

NAME _____ TELEPHONE# _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

Petitioner is the (circle one) **parent, guardian, or custodian** of the following children:

and (circle one) **is, was, or was not** the spouse of Respondent.

On _____ (date of order), _____ (name of parent)
was ordered to pay child support for the above-name child(ren). A copy of the order, judgment, decree or
administrative order is attached.

Since the entry of order, judgment, or decree attached hereto, circumstances have substantially changed as follows:
Complete this section only if the order for support was entered after July 1, 2005, and is less than three years old.
(Please print. Use additional sheets if necessary.)

**This petition and accompanying documents will be treated as confidential by the court and will not be
available to the public as defined by SDCL 15-15A-2(1)-(3).**

(Continued on Other Side)

(Continued on Other Side)

DSS-SE-415A (07/2006)

STATE OF SOUTH DAKOTA)
IN THE MATTER OF THE CHILD)
SUPPORT OBLIGATION OF) SS
_____)

FINANCIAL STATEMENT

DCS #: _____

Please answer every question or state not applicable if the question does not pertain to your financial situation. If you need more space to answer a question, please attach additional sheets if necessary to fully answer any item. Be sure to attach a copy of your most recent paycheck stub and your last filed Federal Income Tax Return. Include your W-2 if you file jointly. Be sure to date and sign the financial statement after completion.

PERSONAL INFORMATION

NAME: _____

ADDRESS: _____

CURRENT MARITAL STATUS: _____

BANK NAME _____

ADDRESS _____

BIRTHDATE: _____

PHONE: HOME () _____

WORK () _____

CHECKING ACCOUNT #: _____

SAVINGS ACCOUNT #: _____

OTHER _____

EMPLOYMENT INFORMATION

EMPLOYER: _____

EMPLOYER ADDRESS: _____

EMPLOYER'S PHONE: _____

RATE OF PAY: \$ _____ PER _____ HOURS WORKED PER WEEK: _____

DATES EMPLOYED: FROM: _____

TO: _____

OCCUPATION: _____

TIPS: \$ _____ PER _____

GROSS MONTHLY INCOME

1. \$ _____ Salary, Wages, Tips, Commissions, Bonus or Other Designations
2. \$ _____ Gain or profit from a business or profession (self-employment)
3. \$ _____ Pension, retirement, disability, veterans, social security or insurance payments
4. \$ _____ Interest, dividends, rentals, royalties or other gain
5. \$ _____ Gain from sale, trade or conversion of capital assets
6. \$ _____ Unemployment insurance and workers compensation benefits
7. \$ _____ Benefit in lieu of compensation including, but not limited to, military pay allowances.
8. \$ _____ Other income (including Spousal Support received). Explain _____
9. \$ _____ **TOTAL GROSS MONTHLY INCOME** (add lines 1 through 8).

ALLOWABLE DEDUCTIONS

10. \$ _____ Income tax based on one withholding allowance for a single taxpayer (NOT actual number of dependents)
11. \$ _____ Social Security and Medicare taxes withheld from wages or salary
12. \$ _____ Contributions to an IRS qualified retirement plan not exceeding 10% of gross income
13. \$ _____ Unreimbursed employee business expenses (Attach IRS form 2106)
14. \$ _____ Payments made on support orders OTHER THAN FOR THE CHILDREN IN QUESTION IN THIS PROCEEDING (Attach court order and evidence of payments)
15. \$ _____ Payments made for Spousal Support
16. \$ _____ **TOTAL DEDUCTIONS** (add lines 10 through 15)

17. \$ _____ **NET MONTHLY INCOME** (Line 9 minus line 16)

(Continued on Other Side)

HEALTH INSURANCE INFORMATION

Do you have health insurance available for dependents through your employer? _____

If you provide medical or dental insurance for your child(ren) please complete the following:

Name of the Health and/or Dental Insurance Company: _____

Address of the Health and/or Dental Insurance Company: _____

Policy Number of the policy: _____ Total monthly cost for the insurance: _____

Persons covered under the policy of insurance: _____

If you can identify the exact amount of the premium each month that is solely for the child(ren) in this matter, please specify that amount. \$ _____

Please attach to this page a copy of any health insurance or dental insurance cards that provide coverage to the child(ren).

CHILD CARE (DAYCARE) COSTS

Child care costs may be considered in computing the monthly child support obligation provided that the costs are incurred as a result of employment of either parent, job search of either parent, or the training or education of either parent necessary to obtain a job or enhance earning potential. Please complete the following for only those children that the support obligation will pertain to and **attach verification of child care expenses**. If this information is not provided, there may be no allocation of child care expenses in computing the support obligation.

Name and address of child care provider: _____

The names of the child(ren) for whom child care is provided: _____

How many hours per week is child care being provided? _____

Cost of Child Care: Monthly: \$ _____ Weekly: \$ _____ Hourly: \$ _____

List the costs, per month, of the child care expenses incurred for the past six months: _____

Do you receive any state assistance for child care? No _____ Yes _____

Do you claim the Federal Child Care Tax Credit? No _____ Yes _____

ASSET INFORMATION

List assets, value and location (Include vehicles, boats, hunting/fishing gear, sporting goods, real estate, depository accounts (with name, address, and account number of each), cash value of insurance policies, jewelry, securities, and any other property of any kind. If any property has a balance owed against it, show full value of property without regard to this balance; list debt/balance separately).

Description & Location of Item	Market Value	Debt/Balance Owed

Signature of person completing this Financial Statement is required.

Signature

Date

INSTRUCTIONS FOR CHILD SUPPORT ORDER FILING DATA FORM (UJS/DSS FORM 089)

PLEASE READ THE FOLLOWING INSTRUCTIONS CAREFULLY. COMPLETE ALL SECTIONS OF THIS FORM AND FILE THE FORM WITH THE CLERK OF COURT'S OFFICE IN WHICH YOUR CASE IS BEING HANDLED.

As a result of federal welfare reform, *effective October 1, 1998*, new procedures apply to child support cases in South Dakota. The most significant changes are:

- ➔ The Department of Social Services will be the central case registry for the state.
- ➔ The Department of Social Services will be the central payment center for the state and will handle all disbursements.
- ➔ Your failure to update certain information on file with the Department of Social Services and the court by using this Child Support Order Filing Data Form can have serious legal consequences regarding your legal right to be notified of enforcement actions regarding your child support obligations.

INSTRUCTIONS

1. Upon entry of any new or modified court order for child support, the parties in the case must personally, or through their attorney, file a completed Child Support Order Filing Data Form with the clerk of court.
2. Whenever any information on the form changes (for example, you change jobs or place of residence), you must complete a new form and file it with the clerk of court's office.

PLEASE NOTE: You are responsible for ensuring that all information is accurate and current. If you fail to keep the information current, you may be served with future notices and orders of enforcement actions regarding your child support obligation at the last residential or employer address provided. Failure to appear in court when so notified may result in a default judgment being entered against you.

3. If a protection order for domestic violence against a spouse or abuse of a child is in effect (whether temporary or permanent), check the appropriate box on the form and attach a copy of the order to the form.
4. Keep the pink copy for your records and file the remaining copies with the clerk of court's office.

THIS FORM WILL BE TREATED AS A CONFIDENTIAL DOCUMENT BY THE COURT (This means the information will not be released to the public as defined by SDCL 15-15A-2(1)-(3)).

To be completed by clerk of court:

County: _____

(Docket Number)

Date _____ Clerks Initials _____

CONFIDENTIAL FORM

Please type or print.

- ☐ Original Court Order
☐ Modification Order
☐ Information Change

Child Support Order Filing Data

PLAINTIFF/PETITIONER
(Circle one)

Name: _____

SSN: _____

Driver's License # : _____

Date of Birth: _____ Race: _____

Residential Address: _____

Mailing Address (if different from above) _____

Phone No. _____

Attorney Name _____

Attorney Phone No. _____

Employer _____

Employer Address _____

Employer Phone No. _____

Second Employer _____

Second Employer Address _____

Second Employer Phone No. _____

DEFENDANT/RESPONDENT
(Circle one)

Name: _____

SSN: _____

Driver's License # : _____

Date of Birth: _____ Race: _____

Residential Address _____

Mailing Address (if different from above) _____

Phone No. _____

Attorney Name _____

Attorney Phone No. _____

Employer _____

Employer Address _____

Employer Phone No. _____

Second Employer _____

Second Employer Address _____

Second Employer Phone No. _____

Full names, sex of child, dates of birth, and social security numbers of the children involved in this proceeding (if more than six, write on back of form):

_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____
_____	SEX: M / F	DOB: _____	SSN: _____ - _____ - _____

Is a protection order for domestic violence against a spouse or abuse of a child currently in effect?

☐ Yes ☐ No ☐ Unknown

If yes, please attach a copy of the order.

I certify that the above information is true and accurate concerning ☐ Plaintiff/Petitioner

☐ Defendant/Respondent and is accurate to the best of my knowledge as to the other party, or is unavailable. The information is unavailable because _____

I hereby certify that the information required by
SDCL 25-7A-56.7 is not available.

Circuit Judge

Signature

Date